

Notice of Allowability

Application No.

10/069,629

Examiner

Gregory R. Del Cotto

Applicant(s)

DYKSTRA ET AL

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-25.
3. ☐ The drawings filed on ____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 7/1/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 3/22/04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

Gregory R. Del Cotto
Primary Examiner
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Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16 and 20-25, drawn to a bleaching composition comprising an organic catalyst, classified in class 510, subclass 311.
- II. Claim 17-19, drawn to a method for laundering fabrics, classified in class 8, subclass 137.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as product and process of use.

The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the composition of Group I can be used in a materially different process such as in a method of washing dishes.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention: The instant claims are drawn to patentably distinct species of bleach catalysts formula II and formula IV.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Specifically, Applicant is required to elect one bleach catalyst selected from the group consisting of Formula II and Formula IV. Currently, claims 1-25 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

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the prior art, the evidence or admission may be used in a rejection under 35

U.S.C. 103(a) of the other invention.

During a telephone conversation with Jim McBride on March 19, 2004, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-16 and 20-25 and compounds falling under Formula II as the elected species. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jim McBride on March 22, 2004.

The application has been amended as follows:

The Specification:

As the first sentence of the specification, insert --This application claims priority under 35 USC 119(e) to provisional application 60/151,174, filed August 27, 1999. --

The Claims:

In claim 1, line 2, delete "selected from the group consisting of: a)" and insert -- which is --.

In claim 1, line 15, delete the text beginning with “;...”, through the text ending with “.....thereof” in line 28.

In claim 9, line 2, delete “selected from the group consisting of: a)”.

In claim 9, line 31, delete the text beginning with “;...”, through the text ending with “...thereof” in line 61.

In claim 16, line 4, delete “selected from the group consisting of: i)” and insert – which is --.

In claim 16, line 17, delete the text beginning with “;...”, through the text ending with “...thereof;” in line 31.

In claim 20, line 3, delete ““selected from the group consisting of: i)” and insert – which is --.

In claim 20, line 17, delete the text beginning with “(ii)...”, through the text ending with “.....thereof;” in line 31.

In claim 20, line 33, after “1:1” insert --, said bleach system comprising from about 0.001 ppm to about 5 ppm of said zwitterionic organic catalyst --.

In claim 25, line 3, delete ““selected from the group consisting of: i)” and insert – which is --.

In claim 25, line 17, delete the text beginning with “(ii)...”, through the text ending with “.....thereof;” in line 30.

In claim 25, line 33, after “1:1” insert --, said bleach system comprising from about 0.001 ppm to about 5 ppm of said zwitterionic organic catalyst --.

The Abstract:

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Insert the following Abstract on a separate sheet of paper as the last page of the specification:

Abstract of the Disclosure

The present invention relates to zwitterionic organic catalyst compound bleach systems and methods for using such bleach systems to increase color safety during laundering of fabrics, especially colored fabrics.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The Examiner's Amendment is sufficient to place the instant claims in condition for allowance. Note that, Applicant agreed to cancel the nonelected species, catalysts of Formula IV.

Claims 1-16 and 20-25 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 17-19, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Claims 17-19 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement previously made in this Office Action is hereby withdrawn.

Of the references of record, the most pertinent is Miracle et al (US 5,576,282). Miracle et al teach bleach boosters comprising zwitterionic imines and anionic imine polyions having a net negative charge. The bleach boosters increase bleaching effectiveness in lower temperature solutions and demonstrate superior color safety profiles. The bleach boosters are ideally suited for inclusion into bleaching compositions including those with detergents, surfactants and enzymes. Also provided is a laundry additive product including zwitterionic imines and anionic imine polyions with a net negative charge as bleach boosters. See Abstract. However, Miracle et al do not teach a bleach system containing the specific amount and type of arylinium zwitterions as recited by the instant claims.

Accordingly, since the prior art fails to teach or suggest a bleaching composition and method of using such a composition as recited by the instant claims, the instant claims are deemed allowable.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
March 22, 2004